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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,101	11/21/2001	William Alfond	10207-131001	5726

7590 09/10/2003
FORREST N. KRUTTER
3024 HARNEY STREET
OMAHA, NE 68131

EXAMINER

KAVANAUGH, JOHN T

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 09/10/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,101

Applicant(s)

ALFOND ET AL.

Examiner

Ted Kavanaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-19, 21-41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) 41 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40 is/are allowed.
- 6) ☒ Claim(s) 2-5, 15, 16, 21-25, 35, 36 and 43 is/are rejected.
- 7) ☒ Claim(s) 6-14, 17-19, 26-34, 37-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: In the amendment filed August 21, 2003, the amendment to the paragraph on page 3, beginning on line 30, the second occurrence of "loop" should be changed to "hook". See the original paragraph. Applicant has a loop releasable attachment to a loop which should be a hook, as originally filed.

Appropriate correction is required.

Claim Objections

2. Claim 43 is objected to because of the following informalities: "loop-and-loop type fastener" should be changed to "hook-and-loop type fastener". The examiner is unaware of any loop and loop type fastener and inasmuch as there is no support in the original disclosure for this. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5,15,16,21-25,35,36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4716664 (Taylor) in view of US 5542198 (Famolare).

Taylor teaches a bowling shoe with a heel including the lower surface having a horseshoe shape surface (24,26) and a central region (22) being defined by said horseshoe shape surface (24,26) and spaced from this surface substantially as claimed except for the heel surface being removably mounted. Famolare teaches a bowling shoe wherein the heel surface element (46) is removably mounted by hook-and-loop type fastener system (58,60). It would have been obvious to provide the bowling shoe of Taylor with the heel surface element being removably mounted by a hook-and-loop type fastening system, as taught by Famolare, so the wearer can select slide materials having desired frictional characteristics to improve sliding on varying bowling lane surface conditions.

Regarding claims 2 and 22, the front end of the heel tapers as shown in figure 5 of Taylor and therefore tapers as claimed.

Regarding claims 3 and 23, the heel as taught above is substantially rectangular shaped except for a forward missing notch and therefore defines a notch as claimed.

Regarding claims 4,5,15,16,24,35 and 36 and the like claims, the central region is u-shaped and therefore narrows inwardly and is curved.

Allowable Subject Matter

5. Claims 6-14,17-19,26-34,37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The claims that have been indicated as allowable all have the same feature (e.g. ...rounded front or leading edge...). These features can be found in other shoe heels but motivation to combined

cannot be found. Claim 41 would have to be canceled since the independent claims are no longer generic.

6. Claim 40 is allowable.

Response to Arguments

7. Applicant's arguments filed 8/21/03 have overcome the 102 rejection of Taylor and Peterson but have not overcome the rejection of Taylor in view of Famolare. Applicant didn't present any arguments for Taylor in view of Famolare.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support

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for any amendments made to the disclosure. See MPEP 2163.06” MPEP 714.02. The “disclosure” includes the claims, the specification and the drawings.

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, “should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners”, M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (703) 872-9302 and After Finals to (703) 872-9303 (FORMAL FAXES ONLY). If the previous Fax numbers are not working use any of the following numbers (703) 305-3579 or (703) 305-3580 or (703) 305-3590. Applicants who authorize charges to a PTO deposit account may also use it for filing papers that require a fee. Please identify Examiner Ted Kavanaugh of Art Unit 3728 at the top of your cover sheet.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov .

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Ted Kavanaugh whose telephone number is (703) 308-1244. The examiner can normally be reached on 6AM - 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached at (703) 308-2672.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335

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Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov/


Ted Kavanaugh
Primary Examiner
Art Unit 3728

TK
September 9, 2003